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EXAMINER

LEE, PHILIP C

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,446	Applicant(s) PUGEL ET AL.	
	Examiner PHILIP C. LEE	Art Unit 2448	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-14 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-14 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment and remarks filed on January 18, 2010.
2. Claims 1, 4-14 and 20 are presented for examination and claims 2-3 and 15-19 are canceled.

Claim Rejections – 35 USC 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-14 are rejected under 35 U.S.C. 101 because “An alert receiver” comprising a discriminator and a warning device (i.e., software) (see page 4, lines 23-25 of the specification and 32, 30 of fig. 2) does not include any functional structure of a machine. A machine comprising a discriminator and a warning device (i.e., software) is considered as program per se, which is not one of the categories of statutory subject matter.

Claim Rejections – 35 USC 103

5. Claim 1, 4, 7-9, 12, 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godwin et al, U.S. 7,292,604 (hereinafter Godwin).

6. As per claim 1, Godwin teaches the invention substantially as claimed comprising:

a discriminator in said alert receiver which receives encoded signals from a network (col. 12, lines 33-40; fig.1; col. 14, lines 47-50; col. 15, lines 48-50), the encoded signals for reporting an event from an information source coupled to the network (col. 15, lines 41-43), wherein the discriminator compares codes designating geographical locations, which are in the encoded signals (col. 14, lines 62-67; col. 15, lines 41-47), to user selected codes (col. 14, lines 26-35; col. 16, lines 4-5) associated with specific localities to determine whether to alert a user (col. 15, lines 41-52); wherein

said encoded signals are encoded data stream in the form of a plurality of data packets (col. 13, lines 13-29, 51-53), where auxiliary information containing said codes is distinguished from audio and video information by use of packet identifier (PID) (col. 13, lines 60-63; col. 14, lines 61-66)

said geographical location codes are placed within the user data fields of a header of a data packet from said plurality of data packets (col. 14, lines 62-65; 74, 78, fig. 5); and

said discrimination uses said PID information and said user data fields to determine geographic regions related to said event (col. 13, lines 53-57; col. 14, lines 63-67); and

a warning device responsive to a result from the discriminator of comparing the codes designating geographic locations included in the encoded signals to the user selected codes associated with specific localities, wherein said warning device outputs an alarm for each specific locality in the form of at least one of an audible alarm and a visual alarm (col. 15, lines 40-52; col. 16, lines 4-5, 12-15).

7. Although Godwin teaches the encoded signals (i.e., EMS stream broadcast with the compressed video and audio) data stream is compressed (col. 13, lines 20-21, 27-28, 40-41; col. 15, lines 45-47), however, Godwin does not specifically teach encoded in an MPEG-2. The background of the invention of Godwin reference teaches encoded signals are encoded in an MPEG-2 (col. 2, lines 5-12).

8. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Godwin and the background of the invention because the background of the invention's teaching of encode signal in an MPEG-2 would increase the efficiency of Godwin's system by allow a reduction in the bandwidth required for transmission of the signals.

9. As per claim 4, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin further teaches wherein the codes associated with specific localities include codes designating a user's geographic location (col. 15, lines 41-52).

10. As per claim 7, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin further teach comprising a display, which renders textual messages from the encoded signals when a comparison criterion is met (col. 15, lines 8-9, 41-54).

Art Unit: 2448

11. As per claim 8, Godwin teaches the invention substantially as claimed in claim 1 above.

Godwin further teach wherein the event is associated with the codes designating geographic locations and the codes associated with specific localities designate an aspect of the alert receiver such that when one or more event codes match one or more of the codes associated with specific localities, the warning device responds (col. 15, lines 41-54).

12. As per claim 9, Godwin teaches the invention substantially as claimed in claim 8 above.

Godwin further teaches wherein the aspect of the alert receiver includes a code designating a location of the alert receiver (col. 15, lines 49-52).

13. As per claim 12, Godwin teaches the invention substantially as claimed in claim 1 above.

Godwin does not specifically teach that the receiver is always on. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to allow the receiver to be always on for being responsive to the encoded signals because by doing so it would be able to receive unexpected warning signal that can occur at any time.

14. As per claim 14, Godwin teaches the invention substantially as claimed in claim 8 above.

Godwin further teaches wherein the encoded signals are included in a data packet inserted into a data stream, wherein the data packet is identifiable as an alert message (col. 15, lines 45-47; col. 13, lines 51-63).

Art Unit: 2448

15. As per claim 20, Godwin teaches the invention substantially as claimed for receiving an alert message concerning an emergency situation affecting a user location(col. 15, lines 41-52), the user location having a user selected code designation (col. 14, lines 62-67; col. 15, lines 41-47) associated therewith comprising the steps of:

receiving the alert message comporting to a data format (col. 13, lines 13-29);
comparing codes that designate geographic locations to the user selected code designation associated with a user location (col. 13, lines 53-57; col. 14, lines 63-67; col. 15, lines 40-52; col. 16, lines 4-5, 12-15), the codes that designate geographic locations being in user data fields of headers of auxiliary data packets in a data stream in the form with comprise the alert message (col. 13, lines 21-29, 60-63; col. 14, lines 61-66), where said comparison also distinguishes said auxiliary data packets from other data packets by using the packet identifiers (PIDS) associated with said auxiliary data packets (col. 13, lines 60-63; col. 14, lines 61-66); and rendering an alert upon a match of the code that designate geographic locations and the user selected code designation associated with the user location (col. 15, lines 48-54).

16. Although Godwin teaches the encoded signals (i.e., EMS stream broadcast with the compressed video and audio) data stream is compressed (col. 13, lines 20-21, 27-28, 40-41; col. 15, lines 45-47), however, Godwin does not specifically teach encoded in an MPEG-2. The background of the invention of Godwin reference teaches encoded signals are encoded in an MPEG-2 (col. 2, lines 5-12).

Art Unit: 2448

17. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Godwin and the background of the invention because the background of the invention's teaching of encode signal in an MPEG-2 would increase the efficiency of Godwin's system by allow a reduction in the bandwidth required for transmission of the signals.

18. Claims 5, 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godwin in view of Deeds, U.S. Patent 6,710,715 (hereinafter Deeds).

19. As per claim 5, Godwin teaches the invention substantially as claimed in claim 4 above. Godwin does not specifically teach Federal Information Processing System. Deeds teaches wherein the codes designating geographic locations include Federal Information Processing System (FIPS) codes (col. 13, lines 44-45).

20. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Godwin and Deeds because Deeds's teaching of FIPS would increase the compatibility of Godwin's system by providing a federal information standard for encoding data.

21. As per claim 6, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not specifically teach Specific Area Message Encoding. Deeds teaches wherein the encoded signals include Specific Area Message Encoding (SAME) (col. 13, lines 35-37).

22. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to Godwin and Deeds because Deeds's teaching of SAME would increase the compatibility of Godwin's system by providing a protocol for encoding emergency alert to be communicated to a public.

23. As per claim 10, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not specifically teach the alert receiver includes codes designating geographic locations. Deeds teaches wherein the aspect of the alert receiver includes the codes designating geographic locations (col. 10, lines 58-61).

24. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to Godwin and Deeds because Deeds's teaching of codes designating geographic locations would increase the alertness of Godwin's system by allowing plurality of geographic locations to be designated.

25. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godwin in view of Lock et al, U.S. Patent Application Publication 2003/0121036 (hereinafter Lock).

26. As per claim 11, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not teach a head end station through a cable network. Lock teaches a similar alert

Art Unit: 2448

receiver, wherein the alert receiver is coupled to a head end station through a cable network ([0005]).

27. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teaching of Godwin and Lock because Lock's teaching would allow alert messages to be distributed to users in Godwin's system via CATV distribution cables network.

28. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godwin in view of Baron et al, U.S. Patent 5,940,776 (hereinafter Baron).

29. As per claim 13, Godwin teaches the invention substantially as claimed in claim 1 above. Godwin does not teach vertical blanking interval of received television signal. Baron teaches a similar receiver, wherein the encoded signals include characters inserted into a vertical blanking interval (VBI) of a received television signal (col. 2, line 66-col. 3, line 9).

30. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teaching of Godwin and Baron because Baron's teaching would allow alert messages such as National Weather Service (NWS) messages to be inserted in a television signal for transmission to a remote user in Godwin's system.

Art Unit: 2448

31. Applicant's arguments with respect to claims 1, 4-14 and 20 have been considered but they are moot in view of new grounds of rejections.

32. In the remarks, applicant argued that:

- (1) Claims 1-14 are directed to statutory subject matter.
- (2) The prior arts fail to teach said geographical location codes are placed within the user data fields of a header of a data packet from said plurality of data packets; and said discriminator uses said PID information and said user data fields to determine geographic regions related to said event.
- (3) The prior arts fail to teach a warning device responsive to a result from the discriminator of comparing the codes designating geographic locations included in the encoded signals to user selected codes associated with specific localities, wherein said warning device outputs an alarm for each specific locality in the form of at least one of an audible alarm and a visual alarm.
- (4) The prior arts fail to teach comparing codes that designate geographic locations to the user selected code designation associated with a user location, the codes that designate geographic locations being in user data fields of headers of auxiliary data packets in a MPRG-2 data stream in the form which comprise the alert message, where said comparison also

distinguishes said auxiliary data packets from other data packets by using the packet identifiers (PIDS) associated with said auxiliary data packets.

33. In response to point (1), page 4, lines 23-25 of the specification states: "the elements shown in the FIGS. may be implemented in various forms of hardware, software or combination thereof." This means the elements of "discriminator 32" and "warning device 30" in fig. 2, which are elements of FIGS as stated in page 4, lines 23-25 of the specification, can be in the form of software. Therefore, "An alert receiver" of claim 1 comprises only software elements. Accordingly, the rejection is maintained.

34. In response to point (2), Godwin teaches several EMS signals can be broadcast in a common video/audio (col. 15, lines 41-47). This common video/audio program stream may include data including geographic identifiers (col. 13, lines 13-20). Godwin further teach the geographic identifiers (i.e., geographic identifiers from several signals) are placed within header field (i.e., user data field) of the packet of the packets of a stream. Godwin teaches a data stream (e.g., 55, fig. 2) includes number of other data streams/channels (e.g., video 45, audio 46, data such as EMS or combination 47). Using the identifier that corresponds to individual channel for the receiver to identify the broadcast resource (col. 13, lines 13-20, 42-56) for the channels in the data stream (col. 13, lines 51-65). As explained above, the headers of the packets in the stream include geographic identifier for identifying the geographic region (col. 14, lines 60-67). This means both the identifier for identifying the channel in the stream in order for the receiver to receiver the channel and the geographic identifier in the header field (i.e., user data field) for

Art Unit: 2448

comparison with the geographic identifiers at the receiver are used in order for the receiver to determine the geographic region.

35. In response to point (3), Godwin teaches various geographic identifiers are stored in the receivers (col. 16, lines 4-5). The geographic identifiers at the receivers can be inputted manually (col. 14, lines 33-35). These geographic identifiers at the receivers are compared to geographic identifiers in the broadcast signals (col. 15, lines 41-47). The received signal is displayed when the various geographic identifiers at the receiver correspond to the geographic identifiers in each of the EMS streams broadcasted in a common video/audio (col. 15, lines 41-47) (i.e., comparing the codes designating geographic locations included in the encoded signals to user selected codes associated with specific localities, wherein said warning device outputs an alarm for each specific locality in the form of at least one of an audible alarm and a visual alarm).

36. In response to point (4), as explained in response to point (3) above, Godwin teaches comparing codes that designate geographic locations to the user selected code designation associated with a user location, the codes that designate geographic locations being in user data fields of headers of auxiliary data packets in the form which comprise the alert message, where said comparison also distinguishes said auxiliary data packets from other data packets by using the packet identifiers (PIDS) associated with said auxiliary data packets. Although Godwin teaches the encoded signals (i.e., EMS stream broadcast with the compressed video and audio) data stream is compressed (col. 13, lines 20-21, 27-28, 40-41; col. 15, lines 45-47), however,

Art Unit: 2448

Godwin does not specifically teach encoded in an MPEG-2. The background of the invention of Godwin reference teaches encoded signals are encoded in an MPEG-2 (col. 2, lines 5-12). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Godwin and the background of the invention because the background of the invention's teaching of encode signal in an MPEG-2 would increase the efficiency of Godwin's system by allow a reduction in the bandwidth required for transmission of the signals.

CONCLUSION

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every

Art Unit: 2448

other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Philip C Lee/

Primary Examiner, Art Unit 2448